

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS**

BEHAVIOR ANALYST CERTIFICATION	)	
BOARD, INC.,	)	
	)	
Plaintiff,	)	
v.	)	Civil Action No. 4:23-cv-00194-ALM
	)	
MICHAEL MOATES, an individual;	)	
MISTY KIESCHNICK, an individual; and	)	
THE GLOBAL INSTITUTE OF BEHAVIORAL	)	
PRACTITIONERS AND EXAMINERS,	)	
	)	
Defendants.	)	

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**RESPONSE TO MOTION TO STAY DEADLINES**

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Plaintiff, Behavior Analyst Certification Board, Inc. (the “BACB”), by and through its attorneys, respectfully submits its Response to Motion to Stay Deadlines and, as grounds therefor, states the following:

At the outset, Plaintiff notes that Defendant Kieschnick’s Motion to Stay Deadlines (“MTS”) does not contain a certification of conference evidencing that she conferred in good faith with the undersigned counsel prior to filing the MTS because she never did so. Pursuant to E.D. Tex. Loc. R. CV-7, “a request for court intervention is not appropriate until the participants have met and conferred, in good faith, and concluded, in good faith, that the discussions have conclusively ended in an impasse, leaving an open issue for the court to resolve.” Plaintiff respectfully asks this Court to order Defendant Kieschnick to comply with this obligation before filing motions that are subject to this requirement.

Defendant Kieschnick's MTS is premised on the assumption that her concurrently filed Notice of Improper Service and Motion to Dismiss have merit. They do not. As further explained in Plaintiff's Responses to those filings, the improper service issue is moot since Defendant Moates has already been served, individually, and on behalf of The Global Institute of Behavioral Practitioners and Examiners and Plaintiff is not opposed to a transfer in venue in light of Defendant Moates' move from this District.

Further, Defendant Kieschnick was already granted an unopposed 2-month extension from March 28, 2023 to May 30, 2023 to file the present response to the Plaintiff's Complaint. She should not be able to continue delaying resolution in this case and it would be highly prejudicial to Plaintiff should she be allowed to do so, given that Plaintiff has already waited an additional two months to receive a responsive filing.

For these reasons, Plaintiff respectfully requests that this Court deny Defendant Kieschnick's MTS.

Respectfully submitted this 9th day of June, 2023.

HALL, RENDER, KILLIAN, HEATH & LYMAN, P.C.

s/ Mark L. Sabey

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ATTORNEYS FOR PLAINTIFF

### **CERTIFICATE OF SERVICE**

The undersigned certifies that on June 9, 2023, a true and correct copy of the foregoing was served upon the following:

Misty Kieschnick  
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*s/ Crystal J. Sebastiani*  
Crystal J. Sebastiani, Paralegal